

THE QUEEN

v

MEHMED SOLMAZ

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<u>JUDGE:</u>	TINNEY J
<u>WHERE HELD:</u>	Melbourne
<u>DATE OF HEARING:</u>	10 April and 7 June 2019
<u>DATE OF SENTENCE:</u>	12 August 2019
<u>CASE MAY BE CITED AS:</u>	R v Solmaz
<u>MEDIUM NEUTRAL CITATION:</u>	[2019] VSC 530

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CRIMINAL LAW – Sentence – Murder – Victim former spouse with whom accused still resided – Unhappy relationship – Victim rendered unconscious by multiple blows with an implement and then strangled with an electrical cord – Admissions to police – Plea of guilty shortly before trial due to commence – Limited remorse – No relevant prior convictions – Disputed *Verdins* considerations – No application of limbs 1-4 or 6 of *Verdins* – Serious example of offence – High moral culpability – Just punishment – Denunciation – General deterrence – Sentence of 25 years’ imprisonment with non-parole period of 20 years – But for plea of guilty, sentence of 30 years’ imprisonment with non-parole period of 25 years.

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<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the Crown	Mr R Gibson SC	Mr J Cain, Solicitor for Public Prosecutions
For the Accused	Dr G Boas	Theo Magazis & Associates

HIS HONOUR:

**Introduction**

- 1 Mehmed Solmaz, you have pleaded guilty to the murder of your former wife, Fatma Solmaz ('Fatma') in Sunshine West on 23 May 2017, and admitted a single prior finding of guilt against you contained on a Criminal Record filed in this matter.
- 2 The maximum penalty for murder is life imprisonment.

**Background**

- 3 Your murder of Fatma occurred in the context of an apparently unhappy relationship between the two of you which had subsisted for many years leading up to her death.
- 4 Fatma was born in Bulgaria in 1956, and was 61 years old at the time of her death. You were born in Bulgaria in 1957, and were 60 at the time of your crime and are now 62 years old.
- 5 You and Fatma entered into an arranged marriage when you were 18. You had two sons together in Bulgaria, Seyidali and Samed. In 1983, when you were in your mid-20s, you came out alone to Australia. You lived in Melbourne. In 1989, you returned to Bulgaria, and Fatma and the children accompanied you to Melbourne where the family settled. In about 1993 or 1994, you and Fatma separated after marital difficulties. After some time, you divorced. You continued, however, to cohabit in the family home in Sunshine West, the location in which you murdered her.
- 6 Fatma commenced working as a cleaner at the Village Cinema in Sunshine in 1996. She was diagnosed with leukaemia in 2014, but was in remission at the time of her death. You worked for some years in a textile factory. You ceased work in 2008 after sustaining a workplace injury. After that time, using money you had received in compensation for your injury, you travelled widely in Europe and Asia.
- 7 In the years leading up to your crime, the relationship between you and Fatma was not a harmonious one. Your account as to the relationship is at odds with other evidence. I will say more of this later. For now, suffice to say, you and Fatma did not

get along, and your murder of her took place in that context.

**The murder; 23 May 2017**

- 8 Fatma was last seen alive at about 5 pm on Monday 22 May 2017 when she spoke to a neighbour. On 23 May 2017 at 4.22 pm, she spoke with her son Seyidali on the phone. The conversation was unremarkable and she expressed no concerns for her wellbeing and indicated no anxiety at that time.
- 9 Your murder of Fatma occurred sometime between that telephone call and shortly before 8.00 pm that night.
- 10 On the account you subsequently gave to the police, you had a disagreement with Fatma in the lead-up to the attack about your use of a heater. You claimed that she attacked you with the broken leg of a table, hitting you on the leg and the back. You took the piece of wood from her and struck her repeatedly. You did not know how many times. You said, 'I must've lost myself'.<sup>1</sup> You said that Fatma fell onto the floor unconscious. You then used an extension lead to strangle her. You said you must've tightened it around her neck. During this process, she made no sound. You claimed not to know for how long you had the cord around her neck. You also claimed not to know what your intention was as you strangled her. When you believed Fatma to be dead, you packed a number of items into a suitcase and left the premises, leaving Fatma on the floor with the cord still wound tightly around her throat.

**The aftermath of the murder**

- 11 At approximately 8.00 pm, you attended 12 kilometres away in Plumpton at the home of your step sister, Fatma Akbasak. You said to her, 'Look, I did something very bad. I kill your sister-in-law. She tried to bash me with something, and then I bashed her'. At the time of making this confession to Ms Akbasak, you seemed calm.
- 12 You then presented her with a large suitcase and said, 'Just take this luggage. I come to pick up after two or three days'. She told you to go to the police and to take the

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<sup>1</sup> Interview Q 70.

suitcase with you. You said, 'After a couple of days I am going to go to the police'. You then left the house, leaving the suitcase with her. The suitcase was later found to contain clothing and other items, including currency in various denominations to the value of \$2,663.00.

- 13 Ms Akbasak then yelled out to her son Ismael and told him what had happened. Ismael drove off in pursuit of you. He located you in nearby Taylors Road and pulled up beside you. He approached your vehicle and asked to talk. You said to him:

There's nothing to talk about. What's been done has been done. I love you, I need to go away for a few days but I am going to hand myself in in a few days.

- 14 You then drove away and Ismael followed you in his vehicle. When you realised he was behind you, you pulled over, got out of your vehicle, and approached him. You told him not to follow you and not to call the police. You drove away.

- 15 In the meantime, the police were notified. They attended at your home address in Sunshine West to be greeted by the other son of Ms Akbasak, Yusuf. The police gained access to the house when Yusuf smashed a glass sliding door. They observed Fatma lying lifeless on the floor in the living room of the house with the table leg not far away. She had a white extension cord wrapped tightly twice around her neck with a looped knot to the side. So tightly wound was the cord that a policeman was unable to cause any gap between the cord and the skin of Fatma's neck.

- 16 The police removed the cord and attempted to resuscitate Fatma without success. Ambulance officers attended and confirmed she was deceased.

#### **Your flight from Victoria to Queensland**

- 17 After you were last seen by Ismael Akbasak you drove away from Melbourne and proceeded to drive to Queensland over the following two days. You were seen in western New South Wales on 24 May 2017, and asked for directions to Brisbane. On 25 May 2017, a charge and warrant were issued for your arrest for the murder of Fatma.

- 18 Your vehicle was intercepted by Queensland police later on 25 May 2017 in Goondiwindi. You initially told police you were driving to Brisbane to visit your son. When you were asked by detectives shortly after your arrest why you had been arrested, you said, 'Because I killed the wife'.

### **Extradition and interview**

- 19 You were extradited to Victoria on 26 May 2017. On 27 May 2017, you were interviewed by detectives from the Homicide Squad with the assistance of a Turkish interpreter.<sup>2</sup> In the interview, you claimed that Fatma had struck you with the leg of a table following the disagreement about the heater. You said you took the piece of wood from her and struck her an unknown number of times. As you put it, you lost yourself. She fell to the ground unconscious. You admitted then strangling her with the cord while she remained unconscious throughout, making no noise. You said that you would not have done what you did had you taken your medication. You asserted that you heard a humming noise in your head. You agreed that you could have left the house after you had struck her and before strangling her. You claimed that she had threatened in the past to kill you while you were sleeping. You claimed that your initial attack upon her was in self defence, but admitted that she was no threat to you once unconscious. You said that you regretted what you had done and that, 'Whatever my punishment is, I'll have to do it'. As for your flight from the scene of the murder, you said that you took your important belongings in the suitcase to the Akbasak house in case you needed them later. You informed you step sister that you had killed Fatma, and then, having been followed by Ismael who tried to stop you from leaving, you drove to Mildura and then on to Queensland, contemplating suicide on the way. You did not intend to return from Queensland. You were asked what you thought would happen if you wrapped a cord around someone's neck and pulled it, and you said, 'They'll die'. When asked if you intended for Fatma to die, you said, 'I regret one thousand times it happened. It wasn't intentional. If I'd known, would I do something like that? I'm a very calm person. I was never like this. I don't know what happened

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<sup>2</sup> Transcript of interview commences at Depositions 375.

to me. I'm even amazed at myself why I did this. I can't sleep. Why did I do this?' You went on to say, when asked your reason for murdering Fatma, 'My reason is I didn't want to kill her. There is no reason. I don't know what I did, I'm regretful a thousand times'. A little after this, you said, 'They pushed me to this incident'. You said that if your son had given you the money you'd asked for you would have left the house and the murder would not have happened. You also blamed Fatma for the crime, saying, 'This woman started all this, she is the one that was harassing me and whatever happened, happened'. You accused her, further, of stealing money from you.

### Autopsy upon Fatma

20 An autopsy was carried out by Dr Yeliena Baber on the morning of 24 May 2017.<sup>3</sup> The major findings on autopsy were:

- A circumferential, horizontal ligature mark around the neck;
- Petechial haemorrhages in both eyes;
- Multiple areas of blunt trauma to the face and head with an associated occipital skull fracture and left zygomatic arch (cheek bone) fracture which underlay a patterned bruise to the cheek;
- Multiple areas of blunt trauma to the trunk with associated right lateral rib fractures (ribs 2-5) and substantial intramuscular and subcutaneous haemorrhage about the back;
- Multiple areas of blunt trauma to the arms and legs;
- Bruises to the hands consistent with and suggestive of defence-type injuries;
- The patterned bruising over the left cheek bone fracture was consistent with having been inflicted by a heavy, straight-edged weapon. Other linear bruises about the body were noted to have a similar linear quality.

21 The pathologist concluded that it was likely that the head injuries resulted in a concussive injury to the brain rendering Fatma unconscious. She was alive but likely unconscious when the ligature was applied to the neck and it was the manual strangulation which was the cause of death, in the setting of the blunt force head

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<sup>3</sup> Autopsy Report at Depositions 64. Dr Michael Burke gave evidence at the committal hearing in place of Dr Baber.

trauma.

**Forensic examination of you after arrest**

- 22 You claimed to have received injuries in the course of the incident. You were photographed in custody in Queensland and then forensically examined in Victoria by Dr Lucy Bransom on 29 May 2017. Abrasions to your neck, chest, and arms, and a bruise to your left thigh were observed during the examination.

**The background to the murder**

- 23 Dr Boas of counsel on your behalf, both in the Outline of Submissions tendered as Exhibit 3 on the plea and in his oral submissions, asserted that your crime occurred in particular circumstances which were important. Not only was your relationship with Fatma a very unhappy one, but it was one in which she had carried out acts of violence towards you in the past, and had threatened violence to you. You touched on this to an extent in your police interview. You gave more detailed accounts indicative of these claims to two experts consulted by you from the time of your incarceration. Your claims, to which I will shortly turn, were an important part of the material relied upon by the experts in forming a view about your state of mind at the time of the murder.
- 24 The first expert to whom you made these claims was Dr Leon Turnbull, an Occupational and Forensic Psychiatrist who assessed you on 30 October 2017 and later provided a report to the Court. You apparently told Dr Turnbull that in recent years, you had formed the view that Fatma was intent on not only making your life difficult, but on harming and ultimately killing you. You told him of instances when she had supposedly physically attacked you, broken your telephone, scratched your glasses, and threatened you. You said that you had come to believe that she was going to kill you while you were asleep or poison your food. You indicated that as a result you were stressed every time you were at home and sought to avoid being in her presence. You also informed him of a particular argument with Fatma leading up to her death in which a coffee table was broken by you, and she then threatened to kill you. On another evening, so you claimed, she was cooking with boiling oil and threatened to

throw the oil over you. In the account you provided to Dr Turnbull, the above matters were background to your description of the incident between you and Fatma on the day of her death, in which you claimed that there was an argument over an iron, leading to your purchase of another iron. As you went to plug it in, according to you, Fatma grabbed the leg of the broken coffee table and struck you to the leg. It was after this that your fatal attack upon her occurred.

- 25 You made different claims about the conduct of Fatma towards you when you spoke with a Consultant Psychologist, Mr Ian Mackinnon at Port Phillip Prison on 7 September 2018, omitting any reference to her having been physically violent or threatening towards you. Your claims to him about Fatma are set out in the following brief passage in the first report of Mr Mackinnon, which became Exhibit 1 on the plea.

...the relationship between Mr Solmaz and his former wife continued to be marked by conflict and unhappiness:

‘She was very abusive to me. For three years, I was abused in the house. It was my wife who was abusive and the two children were also abusive. No one would speak to me in the house’.

Mr Solmaz provided a detailed account [his side of the story] of the abuse he allegedly suffered at home in the years leading up to early 2017. This included his claim that his former wife had constantly harassed him over little things. For example, telling him he couldn’t watch a TV because their son had bought it, turning off the home heater if he turned it on, deliberately damaging his clothes and other belongings and generally making life so miserable for him that on most days he had usually left home early in the morning and returned as late as possible. Additionally, Mr Solmaz stated that, on many occasions, he had slept in his car parked in car parks behind McDonald’s outlets, at pokies venues and so on, all to avoid the harassment and abuse that his former wife subjected him to when he was at home.<sup>4</sup>

- 26 I took up with Dr Boas during the plea hearing the absence of any material in the depositions supportive of the claims you made to the police and to the two experts about the behaviour of Fatma towards you in the lead-up to the murder. I pointed out that such material as there was, and in particular, the sworn statements of your two sons contained in the depositions, indicated if anything your poor conduct and violence towards her, rather than any episodes of violence, threats, or inappropriate

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<sup>4</sup> Exhibit 1, pages 2-3.



conduct by her towards you. Dr Boas made it clear this material pointing to previous violence by you towards Fatma was disputed.

27 Stated simply, the approach of Dr Boas was that Mr Mackinnon, as an expert in human behaviour, accepted the truthfulness of the full account you had given him, and I should also accept it.

28 I cannot agree with that proposition. There is no independent support for the truthfulness of any of those claims you made of Fatma, either to Mr Mackinnon or to Dr Turnbull. If anything, the other material points in the opposite direction. There is no evidence that you ever made any of these claims to any person until such time as you were in custody for the murder of Fatma. Furthermore, your claims had, in many respects, an implausible sound to them. You yourself have not attested on oath to the truthfulness of your claims.

29 Whilst Mr McKinnon may have seen fit to accept the truthfulness of things you told him, I am not prepared to do so. Insofar as you were seeking to establish before me the existence of a potentially mitigating feature, namely, the asserted poor conduct of Fatma towards you, which might have gone at least some way to explain why you attacked her as you did, the onus was on you to prove it. You have not done so. I am not satisfied that there was any truth to those claims you made of her threatening and violent behaviour towards you. Indeed, I think the claims are highly likely to be false.

30 Having said that, I make it clear that I have reached no conclusion on the material contained in the statements of your two sons and some other material in the depositions pointing to your previous violence and poor conduct towards Fatma. To act on this aggravating material, I would need to be satisfied beyond reasonable doubt about its correctness. I am not so satisfied.

31 One thing is clear. The relationship between you and Fatma was, for many years, a very troubled one. Your attack upon her took place in that context. You claimed that following a disagreement between the two of you, she struck you with the leg of the table. Mr Gibson conceded that I should sentence you on the basis that this claim of

yours may have been correct. I will do so.

**Your personal background**

32 As I indicated earlier, you are 60 years old. You were born in Bulgaria as one of 15 siblings. I was informed your parents were both shepherds. You had a happy childhood, receiving schooling until the equivalent of Year 8, at which time you commenced to work with your parents. You were in the army in Bulgaria for two years, then worked in the field of parquetry. You married Fatma when you were 18 and have two sons. You came to Australia in 1983 and then brought Fatma and your children out here in 1989. In Australia, you did factory work before sustaining a workplace injury in 2008. You have not worked since then. You and Fatma remained living together in the family home in Sunshine West after your separation and divorce. It was, as indicated earlier, a very unhappy relationship. In February 2017, your father died in Bulgaria. You attended his funeral and were distressed at his death.

33 You have one prior finding of guilt contained on the Criminal Record filed against you. This was a matter of unlawful assault in 2005 for which you received a bond without conviction. The offence concerned a disagreement with a work colleague. I consider the prior matter to be of little significance in your case.

**Your mental condition at the time of the crime and now**

34 I have already touched on the expert reports of Dr Turnbull and Mr McKinnon. I will now turn in more detail to their contents, and to the evidence of Mr McKinnon which was given before me. Dr Boas relied, in particular, on Mr McKinnon's opinions in support of the submissions that he made that a number of the limbs in the case of *R v Verdins* ('*Verdins*')<sup>5</sup> were applicable in your case. The Crown took issue with those submissions.

35 Dr Turnbull in his report noted that a previous psychological report written on 28 June 2011<sup>6</sup> in connection with your workplace injury provided a diagnosis of an adjustment

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<sup>5</sup> (2007) 16 VR 269 ('*Verdins*').

<sup>6</sup> Report of John Karamanos at Depositions 246.

disorder with mixed anxiety and depressed mood. The psychological condition was said to be in reaction to your then physical injury. You were apparently referred by your general practitioner to a psychiatrist in September 2015 as a result of your worsening depression and family discord. The referral letter indicated a diagnosis of depression in 2015, for which you were treated with the antidepressant sertraline. Dr Turnbull noted that there was little in the police interview to suggest you were in a psychiatrically disturbed state at the time of the interview.

36 In respect of your mental state on the occasion of his assessment of you, Dr Turnbull noted you to be not outwardly depressed or anxious, although you described yourself as depressed. You told him of night time visions and a persistent humming in your head. Dr Turnbull did not consider these phenomena were consistent with auditory or visual hallucinations. He saw nothing to indicate your thinking was disorganised by any psychotic process.

37 Dr Turnbull considered that your previously diagnosed adjustment disorder had 'probably proceeded on to the natural and not uncommon outcome of depressive disorder for which he was treated through his general practitioner'.

38 He did not disagree with the diagnosis of depression and considered that you were likely depressed at the time of Fatma's death. He said it was difficult to discern how 'contributory or relevant' this was, however. He further opined:

It seems from his account he and his wife had many years of conflict and argument that led to the ultimate events. In the context of their dysfunction, his mildly depressive state probably eroded to some degree his ability to compose himself and make appropriate decisions. Having said that, the main motivating factor was by his account a response to her assault on him.<sup>7</sup>

39 Dr Turnbull indicated that you had not psychiatrically deteriorated in custody, which suggested that your depressive condition was 'on the mild rather than the severe side at least at the current time'.

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<sup>7</sup> Report of Dr Turnbull, page 6.

40 He stated that you should have regular reviews with a psychiatrist in custody which would be difficult for you because of the fact English is not your first language. This would reduce the benefits of such consultations. As he put it, 'This combination could be seen as making custody more onerous for him to a mild degree'.<sup>8</sup>

41 Dr Turnbull indicated it would likely be fruitful to have your former treating psychiatrist furnish a report to the Court as that person might have a more nuanced insight into your thinking than did he. That course has not been followed.

42 Mr Mackinnon went a great deal further in his report and evidence than did Dr Turnbull.

43 Mr Mackinnon, in his report of 15 September 2019, described your intelligence and cognitive functioning as he observed them to be as normal. He said that at the time he assessed you on 7 September 2018, you appeared to be suffering with a chronic adjustment disorder (with anxiety and depression) of severe intensity. He said the adjustment disorder:

Appears to have its origins in an unhappy marriage, a debilitating spinal injury suffered in 2008, adverse financial and other consequences of this injury, the death of his father in February 2017, a distressing chronic humming sound experienced for several years, the death of his former wife, his imprisonment and legal predicament.<sup>9</sup>

44 He expressed the opinion that at the time of the offence, you were:

probably suffering from symptoms that met the clinical criteria for the following major diagnosable psychological disorder:

ADJUSTMENT DISORDER

ACUTE STRESS REACTION

45 Mr Mackinnon went on to say:

In my opinion, Mr Solmaz's chronic Adjustment Disorder and associated Acute Stress reaction probably made a significant contribution to his offending by degrading his ability to reason and make sound judgment, distorting his perception, raising his aggressive impulses, elevating his impulsivity, lowering his powers of consequential thinking, and lowering his frustration tolerance

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<sup>8</sup> Report of Dr Turnbull, page 6.

<sup>9</sup> Exhibit 1, page 5.

threshold.

In my opinion, Mr Solmaz was already suffering with extreme distress in the period leading up to the death of his wife. Mr Solmaz's father had died and he was suffering deep grief over this loss which exacerbated the anxiety and depression he was already suffering from as a consequence of several life stressors, including a debilitating spinal injury, an unhappy marriage and associated conflict and a distressing chronic humming sound he experienced for several years.

Mr Solmaz had consulted with, and been treated by, several medical and psychological specialists in the years prior to the death of his former wife in 2017.

In this context, Mr Solmaz's general distress appears to have taken on extra dimensions in the wake of his father's death, evolving into what might be regarded as an Acute Stress Reaction and culminating in an explosive fit of rage at the time he killed his wife. At this point, Mr Solmaz is likely to have experienced a loss of self-control, a clouding of consciousness and cognitive distortion.

Accordingly, it is quite possible that Mr Solmaz is genuinely unable to provide a coherent account of his actions at the time of his former wife's death.

In my opinion, Mr Solmaz did not act with significant premeditation and, as he acknowledged at the time I assessed him, he had nothing to gain and he has now 'lost everything'.<sup>10</sup>

- 46 Mr Mackinnon spoke of the need for ongoing psychological therapy for you, and of the fact that you were not likely to receive many personal visits in prison. He went on to say:

Should Mr Solmaz be imprisoned for a significant term for the current matter, he is likely to find imprisonment very difficult to cope with. Mr Solmaz's language and cultural disadvantages are likely to limit the rehabilitative programs and activities he can access, engage in and benefit from.

- 47 The questions of the burden of imprisonment on you in light of your condition and the likely future effect of imprisonment on your mental condition were the subject of discussion in the second report of Mr Mackinnon, dated 3 June 2019.<sup>11</sup> In this report, Mr Mackinnon stated:

In my opinion, Mr Solmaz suffers from an adjustment disorder which means that a lengthy term of imprisonment will weigh more heavily on him than on a prisoner of normal health because his condition will be exacerbated by his low level of formal education and language and cultural barriers he faces (which make it more difficult for him to access and benefit from rehabilitative

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<sup>10</sup> Exhibit 1, page 6.

<sup>11</sup> Exhibit 2.

programs and mental health treatment), his relatively advanced age (which adversely affects his motivation and ability to formulate post-release goals), his lack of local family support and contact (that may have given him hope and encouraged him to recover), his small physical stature and lack of prior prison experience (leaving him vulnerable and socially isolated) and his generally poor physical health (adding to his pessimism and despondency).

48 Mr Mackinnon also expressed the view that in the circumstances, including limitations of the prison environment and your limited English, you would be unlikely to be provided with ongoing psychological therapy in prison. This in turn led him to express the view that a lengthy term of imprisonment would probably exacerbate your Adjustment Disorder.

49 The prosecution having made it clear that it challenged the opinions of Mr Mackinnon and wished to cross examine him, Mr Mackinnon was called to give evidence before me on 7 June 2019.

50 The two expert reports of Mr Mackinnon were tendered as exhibits, Mr Mackinnon having attested to the truthfulness of their contents.

51 During his evidence, Mr Mackinnon indicated that his sole contact with you was a one and three-quarter hour consultation with you in prison, with the use of an interpreter.

52 Mr Mackinnon, by reference to the previous diagnosis of adjustment disorder in the report of Dr Karamanos, expressed the opinion that you had probably been suffering from an adjustment disorder for a very long time at the time of the murder. He said this had been 'exacerbated massively' when your father died 10 months before the crime.<sup>12</sup> He described that as a 'massive event' for you. He said that:

In that state, arguing with his wife, regardless of who started the argument and I'm sure there are two sides to it, I believe he suffered an acute stress reaction and just reacted with uncontrollable rage in the moment.<sup>13</sup>

53 Mr Mackinnon criticised Dr Turnbull for having made no mention of the death of your father, or of your spinal injury, another major event.

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<sup>12</sup> Plea 62.

<sup>13</sup> Plea 62.

- 54 He took issue with Dr Turnbull's opinion that your depressive condition in prison was mild. He described it as 'quite severe'.<sup>14</sup> He also took issue with Dr Turnbull's opinion that your condition would make custody more onerous for you to a mild degree. He said custody would be much more onerous for you.
- 55 Mr Mackinnon was asked his view about your truthfulness where your history was concerned. He said that the information you provided to him seemed to be consistent with the other information provided to him from other sources. He considered you to be truthful in the information you provided and in the answers you gave to his questions.
- 56 Mr Mackinnon was cross examined by Mr Gibson SC for the Crown. During cross examination, Mr Mackinnon admitted that he had not been provided with the full brief of evidence, and in particular, the statements of your two sons. He was not in a position, therefore, to cross reference what you told him with other material that might be in the brief. He acknowledged that contrary to his understanding of it, Dr Turnbull had, indeed, been in possession of the report of Dr Karamanos, and was aware of the workplace injury and the previous diagnosis of adjustment disorder.
- 57 In spite of considering it to be an important issue where your mental condition was concerned, Mr Mackinnon knew nothing about the circumstances of the death of your father.
- 58 When being cross examined about a journal article, Mr Mackinnon gave the surprising evidence that he made no use of, and had no respect for, the *DSM-5*.<sup>15</sup> He believed the publication to be a 'flawed enterprise' and the result of a 'corrupt process',<sup>16</sup> but in any event, something for the use of psychiatrists not psychologists.
- 59 He was cross examined about the basis of his opinion as to your suffering from an adjustment disorder, and questioned about the fact some of the stressors would now

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<sup>14</sup> Plea 64.

<sup>15</sup> *Diagnostic and Statistical Manual*, 5th Edition.

<sup>16</sup> Plea 76.

have fallen away.

60 Mr Gibson challenged Mr Mackinnon's opinion as to the lack of available psychological services in prison and the difficulties you may face in that regard. Mr Mackinnon admitted that he had made no inquiries of Corrections in respect of such matters. As far as he was concerned, 'I don't think they would've been able to provide any useful information'.<sup>17</sup>

61 When informed by Mr Gibson of some of the content of the affidavit of Jennifer Hosking, Acting Assistant Commissioner, Sentence Management Division, Corrections Victoria<sup>18</sup> concerning the availability of medical and language services to prisoners in Victoria, Mr Mackinnon described the content of the affidavit as a 'nice motherhood statement'<sup>19</sup>, which to his mind, did not match reality.

62 Towards the end of cross examination, the witness acknowledged that his assertion that you experienced a loss of self-control at the time of your attack upon Fatma was another way of saying you lost your temper.

63 In response to some questions from me, he confirmed that the acute stress reaction to which he referred in his first report was your killing of your wife in a rage. The acute stress reaction was not something in the past. It was something 'in the moment' of the killing.<sup>20</sup>

64 As to how that would differ from someone simply losing his temper, Mr Mackinnon said:

Well, my opinion is it had greater qualities and exceptional qualities largely because it's grown out of a long history of ...suffering with the adjustment disorder where he's already very anxious, very depressed, very emotional, easily upset. And then something tips him over to a greater level and it turns into an acute stress reaction.

65 The essential features of the adjustment disorder that he claimed existed at the time of

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<sup>17</sup> Plea 81.

<sup>18</sup> Exhibit D.

<sup>19</sup> Plea 83.

<sup>20</sup> Plea 87.



the killing were chronic anxiety, depression, rumination over past events, difficulty in persevering, and general social dysfunction.

66 Mr Mackinnon agreed that he had factored into his opinion what you had told him about what things were like between you and Fatma. He acknowledged that in the other material, there was nothing indicating any violence by Fatma towards you, or of your having complained of any such events. He accepted that his conclusion about the state of the relationship was largely, if not entirely, dependent upon what you said to him.

67 As for the previously diagnosed adjustment disorder, there was no material independent of your account to indicate it still existed at the time of the crime.

68 When I put to Mr Mackinnon that even a person suffering from the adjustment disorder posited here could not fail to understand how wrong and dangerous it would be to do what you did to Fatma, he said, 'I think the problem is that in the moment of the rage, the person feels they're justified'.

69 He conceded that, adjustment disorder or not, as you went about killing your wife, you must have had some awareness of that and that it was illegal. In the moment, however, you were likely to have felt justified in what you were doing.

70 When asked by me about the passage from the report of Dr Turnbull in which he opined that the main motivating factor for the attack was a response to Fatma's assault upon you, Mr Mackinnon agreed with that assertion. He continued to express the opinion, however, that your response constituted an acute stress reaction.

71 When pushed on the issue of whether any of the conditions from which you suffered at the time would have stopped you from fully comprehending what the outcome of your actions would be, Mr Mackinnon said he thought it was likely that you suffered cognitive distortion and in the moment, did not fully comprehend or give consideration to what the outcome would be. Even the wrapping of the extension lead around Fatma's throat might not have been fully understood. You may have known

you were killing your wife, but in the moment, you likely thought, 'Once she's dead, I'm free and I'm not suffering', but in fact, you are suffering. The cognitive distortion had diminished your awareness of what you were doing.

72 As for your current situation, whilst admitting that in his first report he had not said anything about prison being more difficult for you than it would be for a normal person because of your adjustment disorder, he had dealt more fully with that issue in the second report.

73 When asked by me whether there was anything to indicate that your mental condition had deteriorated as a result of being in custody for two years, Mr Mackinnon pointed out that he had not seen you since his assessment in 2018.

74 In re-examination by Dr Boas, Mr Mackinnon was asked whether the presence of an adjustment disorder in a person might have a material impact on the person's understanding of their behaviour and the circumstances of an attack being carried out relative to a normal person. He answered:

On its own, probably no. But the acute stress reaction that emerged out of that, yes. But I think if he had just been suffering the adjustment disorder and he hadn't gone into a fit of rage, he would be aware if he killed his wife he'd be going to prison for a long time. But that's not what happened. He, I believe, fell into an extreme fit of rage and his awareness and understanding was disordered in the moment... Without it, I don't think it would have happened.<sup>21</sup>

### Submissions on mental condition

#### **Defence**

75 Dr Boas relied on the evidence of Mr Mackinnon as justifying the conclusion that your mental condition at the time you murdered Fatma made a significant contribution to your offending, for the reasons advanced by Mr Mackinnon at page 6 of his first report.

76 He submitted that principles 1, 3, 4, 5 and 6 of *Verdins* were enlivened. Your moral

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<sup>21</sup> Plea 97.

culpability for your crime was reduced to a material degree due to your mental condition at the time. There should be a 'significant and material'<sup>22</sup> moderation of specific and general deterrence. There should be a reduction in sentence, also, referable to principles 5 and 6 of *Verdins*.

### **Prosecution**

77 Mr Gibson took issue with the applicability of the principles of *Verdins* to this case.

78 I should not accept the evidence of Mr Mackinnon, he submitted, or at least, not in its important respects. There were inherent problems with his evidence. One of the problems was that there was no immediate or relevant psychiatric or psychological material in the lead-up to the murder supportive of Mr Mackinnon's opinions. You were seen by Ramzi Mohammad<sup>23</sup> between August of 2015 and 26 April 2017. There was no material pointing to a process of significant deterioration in you.

79 Mr Gibson submitted that the required realistic contribution between your mental disorder and the murder had not been established. In particular, I should not accept that you were in a state of clouded consciousness or cognitive distortion at the time of your crime. Your conduct afterwards in fleeing the scene with a packed suitcase spoke against this.

80 It was submitted I should prefer the evidence of Dr Turnbull to that of Mr Mackinnon. Dr Turnbull saw you after you had been in custody for almost six months. You were not outwardly depressed, although you described yourself as such. Furthermore, Dr Turnbull noted that you had not psychiatrically deteriorated in custody which was suggestive of your depressive condition being on the mild side.

81 Mr Gibson highlighted the passage in the report of Dr Turnbull concluding with the proposition that the main motivating factor for your conduct was a response to Fatma's asserted attack upon you.

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<sup>22</sup> Plea 105.

<sup>23</sup> Mr Mohammad was the treating psychologist for Mr Solmaz between May 2015 and April 2017. His statement is at Depositions 99.

82 Were I to accept and act on the evidence of Dr Turnbull, as it was submitted I should do, there should not be considered to be any reduction in moral culpability on your part. Furthermore, there would be no reason for general deterrence to be moderated.

83 As for principles 5 and 6 of *Verdins*, if there was to be any reduction in sentence in accordance with those, it should be slight at most.

**Analysis on issue of your mental condition at the time of the crime**

84 In *Verdins*, the Court of Appeal reformulated the principles concerning the relevance of impaired mental functioning to sentence as follows:

Impaired mental functioning, whether temporary or permanent ('the condition'), is relevant to sentencing in at least the following six ways:

1. The condition may reduce the moral culpability of the offending conduct, as distinct from the offender's legal responsibility. Where that is so, the condition affects the punishment that is just in all the circumstances; and denunciation is less likely to be a relevant sentencing objective.
2. The condition may have a bearing on the kind of sentence that is imposed and the conditions in which it should be served.
3. Whether general deterrence should be moderated or eliminated as a sentencing consideration depends upon the nature and severity of the symptoms exhibited by the offender, and the effect of the condition on the mental capacity of the offender, whether at the time of the offending or at the date of sentence or both.
4. Whether specific deterrence should be moderated or eliminated as a sentencing consideration likewise depends upon the nature and severity of the symptoms of the condition as exhibited by the offender, and the effect of the condition on the mental capacity of the offender, whether at the time of the offending or at the date of the sentence or both.
5. The existence of the condition at the date of sentence (or its foreseeable recurrence) may mean that a given sentence will weigh more heavily on the offender than it would on a person in normal health.
6. Where there is a serious risk of imprisonment having a significant adverse effect on the offender's mental health, this will be a factor tending to mitigate punishment.<sup>24</sup>

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<sup>24</sup> *Verdins* (n 5) [32] (citations omitted).

85 In *Director of Public Prosecutions v O'Neill* ('O'Neill'),<sup>25</sup> the Court of Appeal, in summarising the scope and limitations of the principles essayed in *Verdins*, set out eight propositions. The Court stated:

[71] First, the principles are enlivened only where the offender suffers from an impairment of mental functioning. Whether there should be any moderation of general deterrence, and if so its degree, will depend upon the nature and severity of the impairment of mental functioning. It is important to keep in mind that, in *Verdins*, and in this Court's subsequent application of *Verdins*, the Court has consistently stated that the principles in *Verdins* relate to offenders who suffered from 'mental impairment' or 'impaired mental functioning', whether at the time of the offending or at the time of sentence. While the Court in *Verdins* regarded the particular diagnostic label as not being determinative, the principles expressed have always been confined to cases in which the offender suffered an impairment of his or her mental functioning. They do not apply to personality disorders such as those from which the respondent suffered.

...

[74] Second, in order for the first, second, third and fourth principles enunciated in *Verdins* to have application to the sentencing task, there must be a connection between the impairment to mental functioning and the appellant's moral culpability or the need for general and specific deterrence. If the mental impairment existed at the time of the offending, it must have some 'realistic connection' with the offending; or have 'caused or contributed' to the offending; or be 'causally linked' to the offending...

...

[75] Third, to show the necessary connection to the offending and to so enliven limbs one to four of *Verdins*, the offender must establish that the mental impairment affected the offender's ability to appreciate the wrongfulness of the conduct, or obscured the offender's intent to commit the offence, or impaired the offender's ability to make calm and rational choices or to think clearly at the time of the offence.

[76] Fourth, the fifth and sixth limbs of *Verdins* may operate where the existing impairment will make prison more onerous, or where prison may exacerbate the mental condition, if the expert evidence establishes the significance of the impairment to the imposition of a prison sentence.

[77] Fifth, cogent evidence, normally in the form of an expert opinion, is necessary to establish the existence of the mental impairment, either at the time of the offence, or at sentence, or both, and the nature, extent and effect of the mental impairment experienced by the offender at the relevant time.

[78] Sixth, the assessment by the sentencing judge must be undertaken with

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<sup>25</sup> (2015) 47 VR 395 ('O'Neill').

rigour, as was made clear in *Verdins* itself and has since been repeatedly emphasised by this Court on appeal.

...

[82] Seventh, an existing mental impairment at the time of sentence may require appropriate moderation of general deterrence, if it is determined that by virtue of that mental impairment the offender is not an appropriate vehicle for general deterrence. Whether that is so 'depends upon the nature and severity of its symptoms and its effect upon the mental capacity of the accused'.

[83] Eighth, a moderation of general deterrence will not ordinarily be required where the condition arises after the offence as a reaction to the discovery of the offender's crime or the prospect of a lengthy term of imprisonment...<sup>26</sup>

86 It seems to me that there are a number of difficulties facing you in your quest to have me rely on the evidence of Mr Mackinnon, and as a result, reduce your sentence in accordance with the principles in *Verdins*. I will outline some of those now, in no particular order of importance.

87 First, Mr Mackinnon relied to a very large extent on the truthfulness of your account to him about the nature of the relationship between you and Fatma and other matters in arriving at his opinion as to your mental condition at the time of the offending. There was material in the depositions, including the statements from your two sons, which did not sit comfortably with much of what you told Mr Mackinnon and Dr Turnbull. Mr Mackinnon was not provided with this material, and was never in a position to measure your claims against objective facts. As I have already concluded, there is reason to be very concerned about your truthfulness as an historian where your former wife and your relationship are concerned.

88 Secondly, in spite of your earlier diagnosis of adjustment disorder, there is no reliable evidence to indicate that that diagnosis would have been appropriate immediately before your offending, as opposed to when Mr Mackinnon saw you after you had been in custody for 16 months. The previous diagnosis was of a condition principally related to the physical injury you had sustained at work. Your circumstances in that regard were likely to have significantly changed by the time of your crime. You were being treated for mixed anxiety and depressive symptoms by Mr Mohammad for two

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<sup>26</sup> Ibid [71], [74]-[78], [82]-[83].

years between August 2015 and late-April 2017 and were also on medication prescribed by a medical practitioner. There is no evidence that your mental condition was deteriorating during this period leading up to the offending.

89 Thirdly, in his first report, Mr Mackinnon opined that you were probably suffering from two diagnosable psychological disorders, namely, an adjustment disorder and an acute stress reaction 'during the time of the offences'. He stated that in his opinion, the two things probably made a significant contribution to your offending in ways he specified. Mr Mackinnon, in a passage of his report set out earlier, posited the acute stress reaction as something which had evolved from your state of distress as exacerbated by the death of your father. The acute stress reaction had then culminated in an explosive fit of rage at the time you killed Fatma. In other words, as I understood it at least, he was saying that the acute stress reaction was on foot sometime *before* you committed the murder. This was different from what Mr Mackinnon told the Court in his sworn evidence. At that time, he made it clear that the acute stress reaction to which he had referred was something in the actual moment of your assaulting and killing Fatma, your actual conduct in carrying out the crime, and not some pre-existing phenomenon. This apparent change in his account was not explained.

90 Fourthly, although Mr Mackinnon posited your distress over the death of your father as being a critical event in your worsening condition leading up to the murder, it was apparent that he knew nothing at all about the circumstances of your father's death, and how that might have affected you.

91 Fifthly, there was a clear conflict between the evidence of Mr Mackinnon and the account of Dr Turnbull. The latter provided little if any support for the applicability of any of the principles in *Verdins* with the exception of the fifth principle. The Crown did not challenge the opinions of Dr Turnbull. I consider the approach of Dr Turnbull to be more analytical and careful than the approach taken by Mr Mackinnon, and I believe his opinions are to be preferred.

92 Sixthly, Mr Mackinnon's approach to matters touching on the fifth and sixth principles

in *Verdins* was unsatisfactory. He reached conclusions about the future availability of services for you on scant material, and ignoring legitimate material which was drawn to his attention in Court. Furthermore, he did not seek to conduct any analysis of the question of whether or not your mental condition had actually deteriorated or changed in the time since you have been in custody. He had had no further consultation with you since his one consultation on 7 September 2018.

93     Seventhly, Mr Mackinnon did not seem to grapple with the question whether your mental condition at the time of the murder could really have caused you to fail to fully understand how dangerous and wrong it would be to act as you did. Furthermore, when pushed on that issue by me, he opined that at the time of carrying out your acts, including the act of wrapping the extension lead around Fatma's throat, you might not have fully understood what you were doing as a result of 'cognitive distortion', a concept not touched on at all in his report.

94     Eighthly, Mr Mackinnon gave evidence that the adjustment disorder from which he claimed you were suffering might have led you to believe, at the time of your attack upon Fatma, that you were justified in what you were doing, and that if you killed her, you would be free from suffering. Nothing you said to the police or others in the aftermath of your crimes indicated you actually had any such thoughts.

95     A consideration of these and other deficiencies in the evidence of Mr Mackinnon raises real concerns about his evidence in my mind. Approaching the task of assessing his evidence and the defence submissions based upon it with the rigour which the authorities indicate must be applied, I am moved to the view that I cannot accept the evidence of Mr Mackinnon in its important respects, and therefore, cannot accept the defence submissions in respect of the *Verdins* principles.

96     For completeness, I should point out that even had I accepted the bulk of the evidence Mr Mackinnon, I would not have considered that it would lead to a reduction in the sentence I would be required to pass upon you. The real effect of his evidence was that you were suffering from a worsening state of depression and anxiety at the time of



your crime, in the context of which you had an extreme reaction of a loss of control leading to the actual offending. Whilst Mr Mackinnon asserted that your condition made a significant contribution to your offending by degrading your ability to reason and make sound judgment, distorting your perception, raising your aggressive impulses, elevating your impulsivity, lowering your powers of consequential thinking, and lowering your frustration tolerance threshold, a consideration of the shocking and protracted nature of the crime you committed would suggest that any impairment to your mental functioning was not causally linked to your offending. In the context of a very unhappy relationship with Fatma, and in direct response to having been apparently struck by her with the table leg, you took the weapon from her and beat her viciously into a state of unconsciousness. You must have inflicted multiple, forceful blows to her face, head, torso, and limbs in achieving this. Having done so, and while she remained unconscious and helpless on the floor, you obtained the electrical cord, wrapped it around her neck more than once, and pulled it tight to strangle her. There is no doubt, and I am satisfied beyond reasonable doubt, that at the time of doing this, you intended to kill her.

97 To my mind, your conduct cannot be seen in any way as being connected to a defect in your reasoning capabilities, or ability to make sound judgments, or as being some sort of impulsive crime committed out of frustration. Nor is there the slightest reason to consider that you did not, at every stage, fully understand the enormity of what you were doing. Your crime was a crime of extravagant and drawn-out violence committed against a physically weaker person whom you apparently detested and who had offered some provocation to you by striking you with the leg of the table.

98 In my view, none of the first four principles in *Verdins* has any application in your case. Your moral culpability for this crime is exceedingly high, and is not reduced in any way as a result of your mental condition at the time of the offence. As for general and specific deterrence, there is no reason why either should be moderated as a sentencing consideration as a result of the effect on you of mental impairment at the time of your crime or now.

99 In light of the evidence of Dr Turnbull, the fifth principle in *Verdins* has some limited application. I do take into account that the sentence I will pass on you will weigh slightly more heavily on you than it would on a person in normal health.

100 As for the sixth limb in *Verdins*, there is no evidence indicating it has application to you.

**Nature and gravity of the offence and your culpability and degree of responsibility**

101 Two of the matters to which I am required by s 5(2)(c) and (d) of the *Sentencing Act 1991* to have regard are the nature and gravity of the offence and your culpability and degree of responsibility for the offence.

102 It is apparent from what I have already said that in spite of the fact that your crime was not a premeditated one, I consider it to be at the high end of the range of seriousness. In the context of a sad and troubled relationship, and acting in a state of extreme anger which had, at its core, resentment and hatred of Fatma, you killed her by a protracted display of extravagant violence. Your crime was a most extreme overreaction to the modest provocation she had presented you, and the challenges that your unfortunate living circumstances entailed.

103 Fatma was your former wife, and the mother of your children. Albeit that you were no longer married to her, you were still living together in your former matrimonial home, and in a situation where she should have been able to expect that you would protect her rather than harm her. You were still in a position of trust where she was concerned. Entirely breaching that position of trust, you chose to act upon the anger and frustration you apparently felt towards her, and towards your situation.

104 As the Court of Appeal stated in *Felicite v The Queen*:<sup>27</sup>

The taking of a domestic partner's life undermines the foundations of personal relationships and family trust, upon which our society rests. The sentence must reflect both the sanctity of human life and society's abhorrence of violence towards vulnerable and trusting partners, who could legitimately have expected the offender to be the protector from, not the perpetrator of violent

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<sup>27</sup> (2011) 37 VR 329.

abuse. An outburst of homicidal rage in such contexts is totally unacceptable. The community expectation is that the punishment assigned to such conduct must be condign so as to denounce in the strongest terms the abhorrent nature of domestic murder and to deter others from taking a similar course. Accordingly, the principles of general deterrence, denunciation and just punishment will ordinarily be given primacy in sentencing for the murder of a partner in a domestic setting even where there are present, circumstances of provocation or great emotional stress.<sup>28</sup>

### Plea of guilty and remorse

105 You pleaded guilty to this crime before me on 1 August 2018, shortly before a trial was due to commence. Subsequently, you indicated that you wished to seek leave to withdraw that plea of guilty, but in the end, that did not occur. I do not hold those moves by you against you for the purpose of sentence.

106 Your plea of guilty was not at an early opportunity, occurring well after you had been committed for trial in this Court following a contested committal. Having said that, Dr Boas submitted that your plea of guilty served the course of justice and is of utilitarian value. He submitted that by your plea of guilty, you spared the Court and the community the process of a trial, and in particular spared witnesses the trauma and inconvenience of giving evidence. He submitted that you deserve the full discount available for the utilitarian value of your plea.

107 I accept those submissions. Your plea of guilty in the circumstances and at the time when it was forthcoming, is a very important matter going in mitigation. I take it strongly into account in your favour.

108 As for the question of remorse, Dr Boas submitted that I should conclude that you are genuinely remorseful for your conduct. In this regard, Dr Boas submitted:

As Mr Mackinnon records, Mr Solmaz ruminates constantly over how he could have ended up killing his wife. His conduct was not premeditated. He has 'lost everything'.<sup>29</sup>

109 In his outline on the plea, Mr Gibson asserted that:

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<sup>28</sup> Ibid [20].

<sup>29</sup> Defence outline [21].

Having regard to the accused's post offence flight, various comments to witnesses and subsequent conduct following his earlier plea of guilty to murder, there is little evidence of true remorse.<sup>30</sup>

- 110 During the hearing of the plea, Mr Gibson submitted that in light of your expressions of remorse in the police interview, I would be entitled to find that there is remorse on your part 'to some degree'.
- 111 In the circumstances, I do not accept that you have exhibited true remorse. Much of what you have said in this regard has betrayed your concern for and sadness about your own situation, rather than anguish or regret about the terrible crime you committed upon Fatma and the tragedy of that.
- 112 Having said that, bearing in mind your plea of guilty and the statements you have made indicating your remorse, I sentence you on the basis that you are remorseful to some extent. It is to be hoped that with the passage of time during the long years of your sentence, you will come to more fully understand the enormity and the tragedy of the crime you committed, and the devastating effect of it on Fatma and others.

#### **Current sentencing practices**

- 113 In arriving at the appropriate sentence I have taken account of current sentencing practices. In seeking to understand these, I have considered, amongst other things, the *Sentencing Snapshot* from the Sentencing Advisory Council, the helpful material contained within the Judicial College of Victoria's *Victorian Sentencing Manual*, including the murder case collection, and a number of other cases in which sentences for murder have been passed or considered.

#### **Victim impact statements**

- 114 Victim impact statements from your two sons, Samed and Seyidali, both of whom were present during the plea, were filed in Court and tendered on the plea hearing. Neither son wished to have his statement read aloud in Court.
- 115 The brevity and understated terms of the statements does nothing to obscure the

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<sup>30</sup> Prosecution outline [11].

obvious pain and trauma experienced by both of your sons as a result of your crime. They are both now, and no doubt will remain, devastated at the loss of their mother. You were not on good terms with either son before your crime. Now, your conduct has had the practical effect of removing from their lives a much-loved mother who, at the time of her death, was only 61 years old, and could have been expected to play an important role in their lives for decades to come.

116 I take into account in sentencing you the profound effect of your crime on its victims.

### **Prospects of rehabilitation**

117 Dr Boas submitted that you do not pose a high risk of violent reoffending, and that your prospects of rehabilitation are good. The Crown did not make any submissions in opposition to those contentions. In the circumstances, I accept that your prospects of rehabilitation are good.

### **Your isolation in prison**

118 Dr Boas made the point in his submissions that you are now, and will be in future, very isolated in prison, with no one visiting you. You have been disowned by your family and have little prospect of visits or communication with the outside world for the period of your sentence. I accept and take into account that sad and demoralising state of affairs which now confronts you.

### **Non-parole period**

119 Dr Boas urged me, when setting a non-parole period which the law requires me to do in your case, to reach the view that what he described as 'a significantly lower non-parole period' would be appropriate in your case.<sup>31</sup> He did not point to any particular reason why the way in which a non-parole period would be arrived at in the normal course of events should be varied in your case.

120 The head sentence I will pass upon you will necessarily be lengthy, in view of the great seriousness of the crime you committed. I intend to pass a non-parole period which is

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<sup>31</sup> Plea 115.

the shortest term of imprisonment which, in my view, would meet the needs of justice in this case. It cannot be forgotten that both the head sentence and non-parole period must represent an adequate response to the purposes for which sentence is to be passed in this case.

**Important sentencing considerations**

- 121 As indicated earlier, this is a very serious example of the crime of murder. You carried out a crime of extreme violence upon a defenceless woman in respect of whom you were in a position of trust. Having lost your temper, you set about rendering her unconscious in very brutal fashion. You then proceeded, with hatred and malevolence in your heart, to end her life in very deliberate fashion. You had ample time and opportunity to reflect on what you were doing, and pull back from the inevitable outcome of it. In your anger and resentment, you chose not to do so. Having killed your former wife, in heartless fashion, you left her dead on the floor, packed a suitcase, and went about your business, with an apparent lack of regard for her, and for the terrible crime you had committed.
- 122 To my mind, the most important reasons for which sentence must be passed in your case are just punishment, denunciation and general deterrence. Protection of the community and specific deterrence also retain some significance. You must be punished in a way which reflects the shocking seriousness of your crime and amounts to an appropriate response to it. The sentence of this Court must make it perfectly clear that the Court deplores violent crimes of this sort, particularly those committed against domestic partners or former domestic partners. The life of Fatma Solmaz was precious. You took it away for reasons of anger, resentment and frustration. You acted in the clear knowledge of the severity and obvious criminality of your actions. In respect of general deterrence, the sentence I pass must be such as to bring it clearly home to others in the community who may be minded to act with extreme violence and to take the life of a close family member that such conduct will be met with strong punishment.

### Sentence

- 123 Mehmed Solmaz, for the murder of Fatma Somaz, you are sentenced to be imprisoned for a period of 25 years.
- 124 I fix a period of 20 years before which you will not be eligible to be released on parole.
- 125 I declare a period of 809 days up to and including yesterday, 11 August 2019, as being a period already served under this sentence.
- 126 I indicate pursuant to s 6AAA of the *Sentencing Act 1991* that, but for your plea of guilty, I would have sentenced you to be imprisoned for 30 years with a non-parole period of 25 years.
- 127 I make the disposal order sought by the prosecution in respect of items contained in the Schedule to the order.

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### CERTIFICATE

I certify that this and the 29 preceding pages are a true copy of the reasons for Sentence of the Honourable Justice Tinney of the Supreme Court of Victoria delivered on 12 August 2019.

DATED this twelfth day of August 2019.

  
Associate to his Honour Justice Tinney

